



CITY COUNCIL AGENDA REPORT

MEETING DATE: FEBRUARY 2, 2021

ITEM NUMBER: PH-1

SUBJECT: GIVE FIRST READING TO AN ORDINANCE REPEALING URGENCY ORDINANCE 19-19 AND APPROVING CODE AMENDMENT CO-2020-04 AMENDING PORTIONS OF TITLE 13 OF THE COSTA MESA MUNICIPAL CODE PERTAINING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS CONSISTENT WITH STATE LAW REQUIREMENTS AND TO AUTHORIZE RELATED FEES

DATE: JANUARY 26, 2021

FROM: DEVELOPMENT SERVICES DEPARTMENT/ PLANNING DIVISION

PRESENTATION BY: JOHNWILLY AGLUPOS, ASSISTANT PLANNER

**FOR FURTHER INFORMATION
CONTACT:**

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RECOMMENDATION:

Introduce for first reading, by title only, Ordinance No. 2021-xx to repeal Urgency Ordinance 19-19, amend Municipal Code, Title 13, Article 2 pertaining to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), and authorize related fees by a separate resolution.

BACKGROUND

An ADU, known as a granny flat, in-law unit, or accessory second unit, is a secondary dwelling unit with a complete independent living facility for one or more people that is established in conjunction with and subordinate to a primary dwelling unit. The City has historically allowed uses similar to ADUs (e.g., granny flats) as permitted uses provided that the unit was occupied by someone who was at least 62 years of age. In addition, accessory structures (e.g., detached bonus rooms) have been allowed either by right or through the approval of a Conditional Use Permit if a full bathroom was included.

State Regulations

In January 2017, the State established ADU laws to regulate the development of ADUs within single family and multi-family residential zones and to promote housing production. The bills (AB 229 and SB 1069) were intended to reduce barriers to the development of ADUs. The regulations were amended again effective January 2018.

In October 2019, the Governor signed multiple new housing laws to further promote the development of ADUs and JADUs in single family, multi-family, and mixed-use zones. The intent was to promote additional housing stock to help address California's housing needs. Effective January 1, 2020, State law required cities to relax or eliminate many development standards relating to ADUs. For example, cities can no longer establish minimum lot size where an ADU can be constructed, or prohibit ADUs of less than 800 square feet in area. In addition, cities cannot require replacement of parking spaces lost when a garage is converted into an ADU.

Because these new laws which became effective on January 1, 2020 could have invalidated any local ordinances that did not comply with the new standards, the City adopted an urgency ordinance in December 2019, modifying the zoning code to be consistent with State law. By adopting the urgency ordinance, the City was able to retain its discretion to regulate ADUs and JADUs, while allowing additional time to prepare a comprehensive update.

December 17, 2019 City Council Meeting Staff Report and video:

Staff Report:

<http://ftp.costamesaca.gov/costamesaca/council/agenda/2019/2019-12-17/NB-2.pdf>

Video:

https://costamesa.granicus.com/MediaPlayer.php?view_id=10&clip_id=3486

Since 2017, when the City first adopted an Ordinance specifically addressing ADU's under new State regulations, there have been approximately 40 ADU applications submitted. These projects are in varying stages of plan review and construction; fourteen were completed and the remainder are either in plan review, or under-construction.

Planning Commission Review

The Planning Commission held a public hearing on July 27, 2020 and continued the item, requesting staff to modify the proposed Ordinance to be more streamlined and include more standardized development standards. The Planning Commission expressed interest in ensuring that the Code Amendment addressed several concepts listed below. For a more detailed explanation of Planning Commission's request items, please refer to Table 4 of the July 27, 2020 Staff Report which summarizes the major comments and the corresponding staff response.

- Define the intent and purpose of the Ordinance in the recital
- Simplify the structure of the Ordinance
- Reduce differing minimum size standards for ADU types
- Add flexibility for utility connection requirements
- Include standards to ensure neighborhood preservation, particularly for second floor and two-story ADU's
- Clarify implications of ADUs on renter versus ownership housing
- Potential incentives for the creation of ADUs

July 27, 2020 Planning Commission Meeting:

Staff Report:

<http://ftp.costamesaca.gov/costamesaca/planningcommission/agenda/2020/2020-07-27/PH-2.pdf>

Video:

https://costamesa.granicus.com/MediaPlayer.php?view_id=10&clip_id=3581

At its September 14, 2020 meeting, the Planning Commission considered the revised Ordinance and took public comments. The Commission voted to recommend approval of the Code Amendment to the City Council by a 6-0 vote (one absent). The motion included the following general recommendations to City Council:

- Consider eliminating parking requirements for ADUs since more than 90 percent of the City is within ½ mile radius of a bus stop and are already exempt under State law
- Consider applying affordability standards to ADUs to address the affordable housing shortage
- Encourage policies or incentives for ADU development to address multi-generational needs and optional income for homeowners
- Consider a waiver of park impact fees related to JADUs in correlation to the owner occupancy requirement

September 14, 2020 Planning Commission Meeting

Staff Report:

<http://ftp.costamesaca.gov/costamesaca/planningcommission/agenda/2020/2020-09-14/PH-2.pdf>

Video:

https://costamesa.granicus.com/MediaPlayer.php?view_id=10&clip_id=3590

ANALYSIS:

The proposed Ordinance has been structured into four components: Intent, ADU Standards, JADU Standards, and state compliant and general Development Standards. The ADU and JADU Standards sections contain requirements pertaining to zoning, structure types, unit count, size, and conversions. The Development Standards section applies to both ADUs and JADUs and contains requirements such as utility connections, setbacks, height, architectural standards, garage conversions and parking (See Attachment 4).

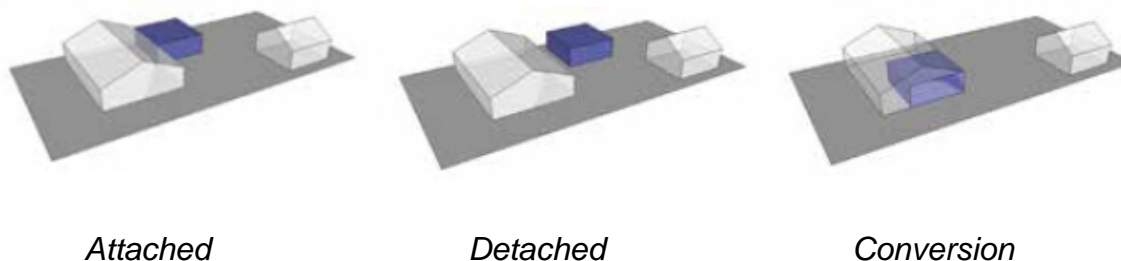
Design and Development

Types

State law identifies two ADU types, an ADU and a Junior ADU (JADU), which can take three general forms—attached, detached, and conversion. An attached ADU is a unit attached to

the primary residential structure. A detached ADU is a unit physically separated from a residential structure.

A converted ADU is a space within the primary residence or an accessory structure that is converted into an independent living unit. Depending on the type of ADU, the impacts could vary and certain requirements such as the size, location, setback, and parking need to be customized.



Number of ADUs

Consistent with the State's requirements, the type of dwelling on the property determines the number of allowable ADUs. Under the proposed Ordinance, a lot with a single-family residential dwelling may have one ADU and one JADU.

A lot with a multi-family residential dwelling may have two detached ADUs and no JADUs. However, multi-family residential structures may potentially have more than two ADU units (not more than 25% of the total number of existing units), if the ADUs are located within non-livable spaces of onsite dwelling units (e.g., storage rooms, basements, garages, and the like). For example, a lot with 16 multi-family dwelling structures may have two detached ADUs or up to four ADU conversions within existing non-livable spaces. (See Table 1.)

ADU Size

State law mandates differing maximum ADU sizes based on the number of bedrooms and requires that local agencies allow for *at least* an 800-square-foot ADU. The Planning Commission expressed a desire for more unified size requirements as a means of simplifying the Ordinance. The proposed Ordinance includes two size options: a maximum size of 1,000 square feet (or 50% of the existing dwelling size, whichever is greater) for attached ADUs and 1,200 square feet for detached ADUs on a lot with a single-family dwelling. For lots containing multi-family dwellings, the maximum ADU size is proposed to be 800 square feet.

Table 1 - Proposed ADU Requirements			
	Number	Size	Requirement
SFD	1 ADU	• Attached – 1,000 SF	• New structures, additions, and conversions within a single-family dwelling or accessory structure

		<ul style="list-style-type: none"> ○ (or 50% of existing dwelling whichever is greater) • Detached – 1,200 SF • Conversions – Within confines of the existing building 	
	1 JADU	<ul style="list-style-type: none"> • Interior– 500 SF 	<ul style="list-style-type: none"> • Within confines of the existing building
MFD	2 ADU ¹	<ul style="list-style-type: none"> • Detached - 800 SF • Conversions – Within confines of the existing building 	<ul style="list-style-type: none"> • New detached structures and conversion within non-livable spaces • Within confines of the existing building

Setbacks

State regulations generally require local agencies to allow ADUs that are at least 800 square feet in size, which do not exceed 16 feet in height, and which comply with side and rear setbacks of 4 feet for ADUs on properties with single-family dwellings. However, State law is silent on street-facing side setbacks and setbacks for second floor and two-story ADUs. To reduce visual impacts to the existing streetscape, promote neighborhood compatibility, and reduce potential privacy impacts, setbacks for ADUs located on a corner lot and second floor or two-story ADUs are subject to setback requirements consistent with the primary residential structures except for the front setback for a new second floor or two-story ADU (see Table 2).

Table 2 - Proposed Setback Requirements		
	Minimum Setback	Requirement
Conversions	Setback of the existing structure	<ul style="list-style-type: none"> • Conversion of any portion of the existing structure • ADU construction in the same location and to the same dimensions as an existing structure
Single-story ADUs	Front – 20 feet Side (interior) – 4 feet Side (exterior) – 10 feet Rear – 4 feet	<ul style="list-style-type: none"> • ADUs on a corner lot may retain the setback of the existing home (e.g., legal non-conforming side setback) or 10 feet, whichever is less
Second-floor or two-story ADUs	Front – 40 feet* Side (interior) – 5 feet Side (exterior) – 10 feet Rear – 20 feet Rear (abutting a publicly dedicated	<ul style="list-style-type: none"> • Setbacks are the same as the underlying zone (except the front setback) to preserve existing neighborhood fabric and compatibility

¹ Potentially more than 2 ADUs may be allowed, because state law allows ADUs up to 25% of the number of existing multifamily dwelling units under certain standards. See Gov't Code § 65852.2(e)(1)(C)(ii).

	alley, street, or park) – 5 feet	
Distance between structures	6 feet	<ul style="list-style-type: none"> Distance from ADU to primary dwelling unit or any accessory structures (e.g., detached garage)

*applies to new second floor additions. If a second floor ADU is within a structure, the minimum front setback of 20 feet is applied (see height discussion below).

Height

The proposed Ordinance reflects the mandated State standards for height applicable to single-story ADUs (16 feet maximum height); however, it includes specific standards to allow second floor or two-story ADUs, which are not addressed by State law. A combination of setback, height, and privacy standards for second floor or two-story ADUs will preserve the character and scale of Costa Mesa's established residential neighborhoods and keep consistent with existing two-story structures which are permitted by right in all single-family neighborhoods as shown in Tables 2, 3 and 4. For example, a stairwell to the second floor entry for an ADU must be designed to be screened from view from public rights-of-way and any windows on the second floor must be 25 feet from a neighboring dwelling in order to minimize privacy concerns.

Table 3 - Proposed General Height		
	Maximum Height	Requirement
Single-story ADU	16 feet	<ul style="list-style-type: none"> Not to exceed the height of any other dwelling that will be on the property
Second floor / two-story ADU	Pitched roof - 27 feet Flat roof – 22 feet	<ul style="list-style-type: none"> Second floor or two-story ADUs are permissible provided that the ADU is at least 40 feet from the front property line; a conversion within a two-story dwelling structure may be 20 feet from the front property line. Two story structures shall not exceed 27 feet consistent with the height requirements of the underlying zone

Open Space

State law preempts a City from establishing limits on lot coverage that would hinder the creation of an ADU of at least 800 square feet in area. As such, the Ordinance includes an open space standard of 40 percent, which is only applicable to any ADU that exceeds 800 square feet in size consistent with requirement of CMMC Section 13-32 to ensure adequate open space is provided when larger ADUs are proposed.

Objective Design Standards

In keeping with the intent of the Residential Design Guidelines and to preserve architectural consistency with the existing residential unit on the lot, an ADU is required to have compatible design, materials, finishes and colors as the main residential unit. In addition, the Ordinance includes a provision requiring the entrance of the ADU or JADU to be located in a manner subordinate to the main entrance of the primary residence (e.g., along the side of the house or within the interior of the property) to reduce the prominence of the accessory second unit and to preserve the character of the residential neighborhood.

Zoning (Land Use Matrix)

Prior to the State regulating ADUs, granny flats were only permitted within a single-family residential zone. State law expanded the requirement mandating that ADUs be allowed in any zone that allows residential uses including multi-family and mixed-use zones. There are five overlays in the City that allow mixed-use as an alternative land use option. Under State guidelines, ADUs are allowed in mixed-use developments provided that there is a single-family and/or multi-family dwelling on the property. For properties that are legal non-conforming in terms of zone (e.g., a single-family residential unit in a commercial zone), the creation or conversion of an ADU would be prohibited. Therefore, the Land-Use Matrix is amended to permit the construction of an ADU in any zone that allows for a residential use on a lot that contains a single-family and/or multi-family dwelling unit.

On the other hand, State law requires JADUs to be permitted only in zones that allow for a residential use on a lot that only contains a single-family dwelling. Therefore, the land use matrix has been modified to reflect that mandate.

Table 4 – Proposed Revisions to the Land Use Matrix

	ZONES																				
LAND USES ⁴	R 1	R 2 M D	R 2 H D	R 3	A P	C L	C 1	C 2	C 1 S 1	T C 1	M G	M P	P D R L D 1	P D R M D 1	P D R H D 1	P D R N C M 1	P D C 1	P D I 1	I & R S 1	I & R M L T 1	P
22.2 Accessory dwelling unit (subject to the requirements of chapter V, section 13-35 , accessory dwelling units)	P ²	P ²	P ²	P ²	•	•	•	•	•	P ²			P ²	P ²	P ²	P ²	P ²	P ²	•	•	P ² •
22.3 Junior Accessory Dwelling Unit (subject to the requirements of chapter V, section 13-	P ²	P ²	P ²	P ²	•	•	•	•	•	•	•	•	P ²	P ²	P ²	P ²	P ²	P ²	•	•	P ² •

	ZONES																					
LAND USES ⁴	R 1	R 2 M D	R 2 H D	R 3	A P	C L	C 1	C 2	C 1 S 1	T C 1	M G	M P	P D R L D 1	P D R M D 1	P D R H D 1	P D R N C M 1	P D C 1	P D I 1	I & R 1	I & R S 1	I & R M L T 1	P
35, accessory dwelling units)																						

In addition, to streamline existing review processes, the Conditional Use Permit (Planning Commission approval) requirement for an accessory structure proposing a full bathroom is removed. This entitlement process was largely applied as a means of ensuring accessory structures were not converted to additional dwelling units; this process is no longer needed, since the State law allows ADUs by right. The proposed Ordinance allows accessory structures with a full bathroom, subject to recordation of a Land Use Restriction distinguishing the structure as an accessory use and not a primary or accessory dwelling unit.

	ZONES																					
LAND USES ⁴	R 1	R 2 M D	R 2 H D	R 3	A P	C L	C 1	C 2	C 1 S ¹	T C ¹	M G	M P	P D R- L D ¹	P D R- M D ¹	P D R- H D ¹	P D R- N C M ¹	P D- C ¹	P D- I ¹	I & R 1	I & R S ¹	I & R M L T ¹	P
15.1 Incidental residential use that includes a toilet in combination with a bathtub or shower. This applies to an accessory use contained in a detached structure, or contained within the main structure with no interior connection between the main and incidental use. <u>Land Use Restriction required</u>	C P	M C P	M C P	M C P	•	•	•	•	•	•	•	•	C P	M C P	M C P	M C P	M C ³ P	M C ³ P	•	•	•	•

Parking Requirements

Under State law effective January 1, 2020, the City cannot require parking for an ADU located within one-half mile walking distance of a transit stop, located within a historic

district, ADUs within a primary residence, ADUs located along a street with on-street parking permits where the City does not issue permits to the ADU occupant, and where there is a car share vehicle within one block of the ADU. In addition, the City cannot require the replacement of parking for conversion of an existing garage, carport conversion, or if a covered parking structure is demolished to be replaced with an ADU or is converted to an ADU. In 2020, the State further defined a transit stop as including bus stops, which provides a parking exemption to the majority of residentially-zoned properties in Costa Mesa (see Attachment 2). The proposed Ordinance reflects these mandates, but continues to require parking for ADUs in areas of the City that are not exempt.

Planning Commission Recommendations

Exemption of Parking Standards

Planning Commission and members of the public expressed concerns regarding applying parking standards to the small percentage of properties that are not exempt from parking by the ½ mile radius requirement. The City Council may elect to revise the Ordinance to exempt all properties from parking requirements to evenly allow property owners to take advantage of the ADU parking exemption, or keep the Ordinance as drafted to require one parking space for a new ADU that has one or more bedrooms if the ADU is not within a ½ mile radius of a bus stop.

Affordability and Housing Needs

The State intends ADUs to provide additional rental housing stock as a means to help address California's housing needs. ADUs can support multigenerational households, provide independent living for family members, and provide supplemental income for residential property owners who will rent their ADUs. The Planning Commission noted a desire for City Council to consider including an affordability requirement in the Ordinance.

For example, the City of Pasadena incentivizes homeowners to provide covenanted affordable ADU rentals for up to 7 years in exchange for reducing residential development impact fees for ADUs above 750 square feet in size and the City of Del Mar allows property owners that agree to provide affordable ADU rentals for 30 years to obtain a floor area bonus of 500 square feet.

The City does not currently have an inclusionary housing policy or other requirement for affordable housing, either for residential development in general or specifically for ADUs. If the City Council would like to consider such an ADU affordability/incentives program, staff recommends that the City Council consider including such a policy in the City's forthcoming Housing Element Update and in a broader City-wide inclusionary housing ordinance. Staff do not recommend applying an affordability requirement or incentive for only ADUs ahead of a broader conversation regarding affordable housing policy in the City.

Park Impact Fees

The Planning Commission noted a desire for City Council to consider exempting JADUs from park impact fees that are currently applied to rental apartment units. A full discussion on this issue is included below.

Small Lot Subdivisions

In its discussions, the Planning Commission raised a question regarding how the ADU Ordinance might interact with small lot developments. In 2014, the Small Lot Ordinance (SLO) was adopted which allows the subdivision into 15 or less fee simple lots for properties with multi-family zoning designations. This type of development is intended to provide for single-family dwellings on smaller lots with less restrictive development standards as a means of promoting homeownership (as opposed to traditional attached and detached condominium development). A SLO development is configured as detached single-family dwelling units on individual lots and therefore considered a single family under State standards. As such, State law provides each small lot the opportunity to be allowed an ADU and a JADU. This is an unintended consequence from a density standpoint. However, given the typical lot size and structure size of SLO units, which are compact with limited open space, it is highly unlikely that detached ADUs would meet development standards on such lots. Therefore, it is unlikely the City will experience a substantial increase in the development of ADUs in this subdivision type. By comparison, a typical multi-family development (e.g. condos, apartments, etc.) development would be subject to the multi-family ADU requirement since there are multiple residences on a single lot. Refer to Table 5.

Table 5 – ADU's by Dwelling Type				
	Architecture Type	Lot Type	Zone	ADU Requirement
Small Lot Ordinance	Detached	Fee Simple Lots	Multi-Family	Single-Family
Typical Multi-family Development	Detached and Attached	One Lot	Multi-Family	Multi-Family

Fees Summary

ADUs are subject to City building permit/plan review and development impact fees, similar to other new development in the City. Permit fees are intended to recover some of the City's cost to review, approve, and inspect a project by planning, building, public services, and fire professionals. Building fees vary depending on the valuation and size of a project. Development Impact Fees are fees collected to offset the impact of a development to community infrastructure. Park impact fees and school fees are examples of development impact fees that apply to all new residential units including ADUs. Building permit fees are dependent on the valuation of the ADU. Park impact fees are dependent on the proportional size of the ADU as compared to the main residence (per State law) with the existing park fee for a single family residence as the baseline. Although fees are project specific, below is an example of applicable fees for two typical ADU types. Fee summary information will be included the City's online FAQ to assist customers in planning for their ADU projects.

Table 6 – Typical Fees			
Type	Garage / Interior Conversions	New 1,200 SF ADU	Fee Calculation
Building (Plan Check, Permit, MEP)	\$1,366 ^a	\$3,530 ^a	Based on project valuation provided by the applicant
Construction Access Permit	\$230	\$230	Flat fee
Park Impact Fees	Exempt ^b	\$6,600 ^c	Based on the proportional area of ADU to main residence multiplied by existing park impact fee (SFD fee is \$13,572 for new units)
Land Use Restriction	\$500	\$500	Flat fee
School Impact Fees	\$0 ^d	\$2,208 ^e	\$1.84 per square-foot of ADU; projects under 500 SF may be exempt

^a Based on average valuation of submitted ADU garage conversions (approximately 360 SF) and new construction ADU's (approximately 1,200 SF)

^b Any proposed ADU below 750 SF is exempt from Park Fees per State law; an average two-car garage in the City is 400 SF

^c Average of a proposed 1,200 SF ADU per the proposed ordinance; existing urgency ordinance maximum park fee not to exceed \$5,000

^d Projects under 500 SF may be exempt; an average two-car garage in the City is 400 SF

^e Based on a 1,200 SF ADU

Park Impact Fees for ADU's and JADU's

In May of 2005, the City Council adopted park fees for new residential subdivisions. In 2015, the Council updated its parkland impact fees ([Resolution 15-27](#)) and instituted new park fees for rental development projects or apartments ([Ordinance 15-09](#)). Residential park impact fees are \$13,572 for a single family residential subdivision (ownership units), \$13,829 for a multi-family residential subdivision (ownership unit) and \$5,000 per unit for a rental unit. The park impact fee for ADUs is assessed proportionally (per State law) in relation to the square footage of the primary dwelling unit multiplied by the residential park impact fee for the primary structure not to exceed \$5,000. Staff proposes to collect ADU impact fees strictly on a proportional-basis as discussed below.

Proposed ADU Park Impact Fees

Because the updated Ordinance allows for the creation of new ADU units that may be as large as 1,200 square feet, it is appropriate to establish fees that would provide park and recreational facilities to serve the future residents of those units, similar to other residential units in the City. Therefore, the creation of an ADU would be subject to the City's existing Park and Recreation Impact Fees, which are applicable to new multi-family residential

developments. However, per State Law Section 65852.2, the City cannot impose any impact fee on an ADU of less than 750 square feet. Any impact fees charged for an ADU of 750 square feet or more are charged proportionally in relation to the square footage of the primary dwelling unit. For example, a proposed 1,000-square-foot ADU on a lot with an existing 2,000-square-foot residence would pay 50 percent of the park fees applicable to the single family home, or \$6,786 as shown in Table 7 below.

Proposed JADU Park Impact Fees

State law is silent on impact fees for JADUs. The Planning Commission expressed interest in possibly reducing or eliminating park impact fees for JADUs. Since JADUs must be constructed within an existing single-family dwelling and would be subject to an owner occupancy covenant (applied through a Land Use Restriction), these units may be used more for extended family members or caregivers. In addition, given the maximum allowable size of JADUs (500 square feet), the increase in the number of people per household may be minimal. City Council may choose to reduce or eliminate park impact fees for JADUs, or waive this fee as an incentive for covenanted affordability as part of a larger affordable housing policy. The City Council may also choose to keep park fees as drafted which requires a \$5,000 park fee consistent with park fees for apartment units.

Table 7: Sample Park Impact Fee Calculation
1,000 SF ADU / 2,000 SF Residence multiplied by the \$13,572 park fee for a single family dwelling unit* = \$6,786

*Fee as adopted per Resolution 15-27

The proposed adjustment to the Zoning Code necessary to reflect the adjusted park impact fee requirements is included in the proposed Ordinance (Attachment 1). The adjusted park impact fees are also reflected in the City's proposed fee schedule as authorized by Resolution (Attachment 2).

It should be noted that other typical development-oriented fees will apply to ADUs and JADUs, the same as any other development. For example, typical fees include building permit fees (such as: plan check and permit fees) and public services fees (such as: construction access fees), as well as school, water and sewer impact fees which are non-City fees and could not be waived.

Minor Revisions after Planning Commission Review

Staff made two minor revisions to the Ordinance that was recommended for approval by the Planning Commission at the September 14, 2020 meeting that are technical in nature and for clarification purposes only (see Attachment 3).

Multi-Family Classification

A clarification was made pertaining to when a development proposal is reviewed under the ADU provisions for lots containing multi-family dwellings. Under Section B(4) of the

proposed Ordinance, the type of dwelling on a lot determines the number of ADUs or JADUs allowed. In this case, a lot with at least two residences is considered multi-family whether the units are detached or attached which is consistent with CMMC definition of a multi-family dwelling. Staff in turn revised Section A(3)(e) of the ADU Ordinance to create a cohesive definition.

Parking

Within the City, the standard development pattern on a single-family lot is to have a driveway that leads to a garage, carport or covered parking. Per State law, an existing garage, carport, or covered parking structure can now be converted or demolished in conjunction with the construction of an ADU or converted ADU without replacing the off-street parking spaces. Two clarifications were added to Section D.14 relating driveway replacement and the term “*in conjunction with*” as described below.

Under the proposed ADU Ordinance, a garage conversion into an ADU is permissible provided that the façade has architectural articulation with the option to remove the driveway (Section D(12) – Garage Conversions). When an applicant opts to not remove the driveway in order to have outdoor parking, it creates a discrepancy in the City’s code. Existing City code prohibits a driveway or parking on a driveway not leading to a garage, carport or covered parking structure. Therefore, an exception provision for ADUs was added in Section D(14)(c) to allow the driveways to remain, consistent with State law.

Secondly, State law allows the demolition of a garage “in conjunction with” ADU construction. Staff added and clarified a provision that allows the demolition of a garage to be considered “in conjunction with” the construction of an ADU if the ADU is constructed within any portion of the footprint of the demolished garage.

Next Steps

If the City Council gives first reading to the proposed ordinance, the Code Amendment would be scheduled for a “second reading” at the next available City Council meeting. If approved, the Code Amendment would become effective 30 days after adoption.

Related to this Ordinance, staff recommends the City Council adopt a Resolution to amend the City’s fee schedule to include Park and Recreation Impact Fees for ADUs and/or JADUs. These fees would become effective 60 days after the approval of the Resolution or concurrently with the effective date of the Ordinance whichever is later.

Following approval, City staff would focus its efforts on updating its application materials and other informational handouts and developing the City’s Accessory Dwelling Unit webpage and FAQ for easy community access to City materials. A draft of the ADU handout is provided as Attachment 4 for reference.

ENVIRONMENTAL DETERMINATION:

Adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") under Public Resources Code section 21080.17 [statutory exemption for second unit ordinances]; CEQA Guidelines sections 15282(h) [statutory exemption for second unit ordinances]; 15303 [new construction or small structures] and 15305 [minor alterations to land]. This ordinance is also exempt under CEQA Guidelines section 15061, because this ordinance will not have a significant effect on the environment, because ADUs will largely constitute infill housing which is exempt from CEQA.

ALTERNATIVES CONSIDERED:

The City Council may approve the Ordinance as proposed, modify the Ordinance, or not adopt the Ordinance.

FISCAL REVIEW:

Fiscal impact is unknown at this time.

LEGAL REVIEW:

The subject Code Amendment and Fee Resolution have been prepared by the City Attorney's Office and the staff report has been reviewed and approved as to form.

PUBLIC NOTICE:

Pursuant to Title 13, Section 13-29(d), of the Costa Mesa Municipal Code, public notice was published once in the Daily Pilot newspaper 10 days prior and mailed 14 days prior to the date of the public hearing to interested parties who filed a written request with the City Clerk pertaining to fees.

As of the date of this report, no public comment has been received. Any additional written comments received will be forwarded under separate cover.

CITY COUNCIL GOALS & PRIORITIES:

City Council Goal No. 2 (Improve our Neighborhoods and Quality of Life) and No. 4 (Address Housing Shortages and Homelessness).

CONCLUSION:

The adoption of the proposed ADU Ordinance would allow for construction and conversion of new ADUs and JADUs by right in a cohesive and integrated manner, while meeting the intent and requirements of State law.

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City Attorney

Attachments:

1. [Draft Ordinance](#)
2. [Fee Resolution](#)
3. [Ordinance in underline strikethrough format comparing Planning Commission recommendation to the proposed Ordinance](#)
4. [Draft Public Handout](#)
5. [Transit Stop Map](#)